

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

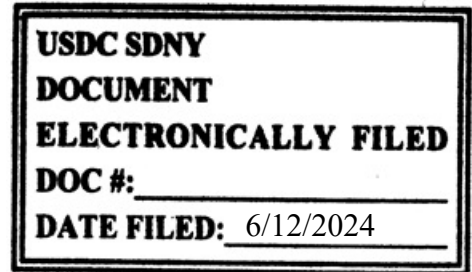
MARIA FABIA SIMONETTI,

Plaintiff,

-against-

GERARD ANTHONY SIMONETTI; AND
JOSEPH A. SIMONETTI,

Defendants.



24-CV-01859 (MMG)

ORDER OF SERVICE

MARGARET M. GARNETT, United States District Judge:

Plaintiff Maria Fabia Simonetti, who is appearing *pro se*, brings this action seeking the return of her minor daughter J.C.S.¹ By order dated May 20, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve

¹ Under Rule 5.2(a) of the Federal Rules of Civil Procedure, court submissions that refer to the an individual's birth date or the name of a minor child must do so only by using the year of the individual's birth and the minor child's initials. Fed. R. Civ. P. 5.2(a)(2) - (3). Plaintiff's complaint and declaration in support of her motion to expedite (ECF 1, 4) reveal the birth dates and full names of her minor children. The Court has directed the Clerk of Court to restrict electronic access to those submissions to a "case participant-only" basis. If Plaintiff refers to a person's birth date or a minor child's name in any future filings, she must comply with Rule 5.2 by referring to the year of the individual's birth and the minor child's initials.

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Gerard Anthony Simonetti and Joseph A. Simonetti through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for the defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon the defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to issue summonses for Defendants Gerard Anthony Simonetti and Joseph A. Simonetti, complete the USM-285 forms with the addresses for these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail a copy of this order to Plaintiff, together with an information package.

Plaintiff may receive court documents by email by completing the attached form, [Consent to Electronic Service](#).³

Furthermore, given the foregoing Order directing service on the Defendants, Plaintiff's Motion to Expedite at Dkt. No. 3 is hereby DENIED as moot.

SO ORDERED.

Dated: June 12, 2024
New York, New York


MARGARET M. GARNETT
United States District Judge

³ If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

SERVICE ADDRESS FOR EACH DEFENDANT

1. **Gerard Anthony Simonetti**

Gerard Anthony Simonetti
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New City, NY 10956

- and -

Dena Simone Moss
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2. **Joseph A. Simonetti**

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